IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

WP(C).No. 21281 of 2007(H)

PETITIONER:

A.MURUGAPPASWAMY, NEDUMPARA KALAM,
VANNAMADA, CHITTUR TALUK, PALAKKAD.

BY ADV. SRI.G.PRABHAKARAN

RESPONDENTS:
----

1. THE REGIONAL TRANSPORT AUTHORITY,
PALAKKAD REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY, REGIONAL TRANSPORT
AUTHORITY, PALAKKAD.

3. K.V.KESAVANUNNY ELIAS UNNI MENON,
BHAGYA MANDIRAM, RAMASSERY, PALAKKAD.

BY ADV. SRI.K.V.GOPINATHAN NAIR FOR R3
GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON 20/11/2007 DELIVERED THE FOLLOWING:

WPC NO.21281/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE PROCEEDINGS DATED 19.12.2006.

EXT.P2: TRUE COPY OF THE PROCEEDINGS DATED 26.4.2007.

EXT.P3: TRUE COPY OF THE APPEAL MEMORANDUM DATED 25.5.07 IN M.V.A.R.P.NO.217/07.

EXT.P4: TRUE COPY OF THE JUDGMENT DATED 20.6.07 IN M.V.A.R.P.NO.217/07.

//TRUE COPY//

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 21281 OF 2007 H
==========

Dated this the 20th day of November, 2007

J U D G M E N T

Petitioner and the 3rd respondent are stage carriage operators. The 3rd respondent had applied for variation of his permit, which was allowed by Ext.P2 order of the 1st respondent. The 3rd respondent challenged Ext.P3 by filing MVARP No.217/07. The revision filed by the petitioner was rejected by Ext.P4 order and challenging Exts. P2 and P4, this writ petition has been filed.

2. The Tribunal has not dealt with the merits of the contentions raised by the petitioner. According to the Tribunal, petitioner lacked locus standi to maintain the revision petition, being a rival operator. It is on this ground that the Tribunal rejected the petitioner's revision petition.

3. As regards the maintainability of the revision petition, the learned counsel for the writ petitioner submits that the issue before the Tribunal was regarding the variation of permit that was granted to the 3rd respondent. Counsel submits that the judgment referred to by the Tribunal to conclude that the petitioner lacked locus standi was one concerning grant of permit and that as this case arose from an order granting variation of

the permit, the law as laid down in the judgment cannot be held against the petitioner in this case.

4. On the other hand, the counsel for the 3rd respondent would submit that the variation was in the interest of the travelling public and that the petitioner is not entitled to challenge the same.

5. I have considered the submissions made by either sides. In the Full Bench judgment reported in the case of ***Binu Chacho v. R.T.A. Pathanamthitta (2006(2) KLT 172)***, it was held that the existing operator cannot invoke the revisional jurisdiction of the STAT on the sole ground that the grant of permit to the opposite party prejudicially affects his rights. Therefore going by the dictum as laid down by the Full Bench, even if the rights of an existing operator is prejudicially affected, he does not have the locus standi to challenge the grant of permit to another person.

6. It is true that in this case, what is complained of is a variation of permit granted by extension of the existing permit by about 7 kms. Therefore, atleast for the distance to which the permit has been varied and extended, there is a new grant. Since

the petitioner's complaint is confined only to the extension thus granted, I do not think that the law as laid down by the Full Bench in the decision reported in ***Binu Chacho v. R.T.A. Pathanamthitta (*2006(2) KLT 172)** is inapplicable in the facts of this case. Therefore, the petitioner has to be held to be having no locus standi to challenge the variation of permit that was granted in favour of the 3rd respondent.

7. It is true that the counsel for the petitioner relied on the judgment of a learned Single Judge reported in ***Prasad v. R.T.A, Ernakualm (2005(1) KLT 227)***. In that judgment, it has been held that when variation is granted, it affects the rights of those operating in the sector and therefore such operators are aggrieved by the said order. However, since the Full Bench of this court has taken a view different from what has been taken by the learned Single Judge, I am bound by the Full Bench judgment, which I respectfully follow.

Therefore, I do not find any merit in the contentions raised by the petitioner. Writ petition fails and it is dismissed.

ANTONY DOMINIC, JUDGE.

Rp